

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

CSX TRANSPORTATION, INC., Plaintiff, v. SPECIALTY ALLOYS CORP.; Defendant.))))))))	No. 09-2170-STA
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ORDER OF DISMISSAL WITH PREJUDICE

On March 27, 2009, Plaintiff CSX Transportation, Inc. filed a Complaint (D.E. # 1) against Defendant Speciality Alloys Corporation, although Specialty Allow Corp. was named in the style of the case. On that same day, the Plaintiff had a summons issued to Specialty Alloys Corp., although the docket indicates that the summons was issued to Speciality Allows Corp. (D.E. # 2). On April 21, 2009, Plaintiff filed an Amended Complaint (D.E. # 4). The next day Plaintiff filed proof of service on the record (D.E. # 5).

On May 11, 2009, Plaintiff had an alias summons issued to Speciality Alloys Corp. (D.E. # 6). On May 26, 2009, Plaintiff then filed a Motion for Entry of Default (D.E. # 8) which the Clerk of Court denied on June 5, 2009 (D.E. # 9) because return of service had not been made on the alias summons.

On October 6, 2009, Plaintiff filed a motion to extend the deadline for service as to the alias summons. Plaintiff had until February 17, 2010 to serve Defendant with the alias summons. To date, Plaintiff has not filed proof of service on the record.

On March 9, 2010, this Court entered an Order requiring Plaintiff to show cause why its case should not be dismissed for lack of prosecution or why Plaintiff should not be required to serve Defendant with the alias summons. Plaintiff had fourteen (14) days to respond to the Court's Order, with response being due on or before March 29, 2010. To date, Plaintiff has not responded to the Court's Order. As such, Plaintiff's case is **DISMISSED** with prejudice for lack of prosecution.

IT IS SO ORDERED.

s/ **S. Thomas Anderson**
S. THOMAS ANDERSON
UNITED STATES DISTRICT JUDGE

Date: April 16th, 2010.